IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CIVIL APPELLATE JURISDICTION

CONTEMPT PETITION NO.455 OF 2004

Dr.Shrikant M. Sapatnekar. ..Petitioner.

V/s.

Maharashtra Public Service Commission & Ors. ..Respondents.

Mr.Sanjeev P. Kadam for petitioner.

Mr.Ganbavale, advocate for respondent Nos.1 to 3.

Mrs. S.S.Bhende, AGP for respondent No.4.

CORAM: A.M.KHANWILKAR,J

DATE : JANUARY 9, 2007.

P.C. :

1. Heard counsel for the parties.

2. Counsel for the petitioner at the outset requested for adjournment on the ground that the petitioner may like to file rejoinder affidavit. The request for adjournment cannot be accepted as the reply affidavit to which the petitioner proposes to respond was filed as back as on 19th June, 2006 and served on the petitioner. More than six months have elapsed since then. The matter was listed for hearing after June, 2006 on July 3, 2006, when it was adjourned to 21st August, 2006. Thereafter, it has

remained pending till today. Nothing prevented the petitioner to file rejoinder affidavit, if he was so advised. Request for filing rejoinder affidavit made today therefore, deserves to be rejected. Besides, after hearing counsel for the petitioner, I was convinced that it was not necessary to adjourn the matter for filing of rejoinder for the view expressed herein.

3. The sole issue that arises for consideration in the present proceeding is whether it is possible to assume that the authorities acted in utter defiance of the order passed by the Court of competent jurisdiction so as to denude the petitioner of his legitimate right to appear for interview for the post of Director of Medical Education and Research, Maharashtra.

4. Taking overall view of the matter and having regard to the fact situation of the present case, it is not possible to countenance the grievance of the petitioner. This is so because, after the direction was issued by the Maharashtra Administrative Tribunal on 15th April, 2004, the Commission took up the matter before this Court by way of W.P. No.3963 of 2004. The said writ petition came to be disposed of

upholding direction of the Tribunal. That order was passed by the High Court on 31st July, 2004. Immediately thereafter, the Commission took up the matter by way of Special Leave Petition before the Apex Court. The Apex Court disposed of the said petition with observation on 25th October, 2004. On the basis of the said observations made by the Apex Court, the Commission immediately filed review petition in November, 2004 which eventually came to be disposed of on January 23, 2006. Indeed, while disposing of this review petition Division Bench of this court has kept all issues in contempt proceeding open to be decided on its own merits. That observation does not take the matter any further for the petitioner.

5. From the events that have unfolded as indicated earlier, it is not possible to accept the argument that the petitioner that the Commissioner wilfully obstructed the Petitioner from appearing in the interview for the said post in utter defiance of the direction passed by the Court. The Commission, all throughout, had reservation about the eligibility of the petitioner and that issue was contested by the Commission right up to the Apex Court and once again by way of review petition in terms of the liberty

granted by the Apex Court. Understood thus, it is not a case for initiating contempt action.

6. Accordingly, the contempt petition is disposed of. Notice issued to the respondents stand discharged.